

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IN RE BLUE CROSS BLUE SHIELD	:	
ANTITRUST LITIGATION	:	Master File 2:13-cv-20000-RDP
MDL 2406	:	
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	:	This document relates to
	:	Subscriber Track cases

MOTION FOR SUPPLEMENTAL NOTICE TO SELF-FUNDED ACCOUNTS

Subscriber Plaintiffs and Settling Defendants (together, the “Settling Parties”) entered into a Settlement Agreement resolving the Subscriber Actions. ECF No. 2610-2. On November 30, 2020, this Court entered an order granting preliminary approval of the Settlement, Plan of Distribution, and Notice Plan. ECF No. 2641. JND Legal Administration (“JND”), the Court-appointed notice and claims administrator, effectuated the Court-approved Notice Plan, and Subscriber Plaintiffs moved for final approval of the Settlement. ECF No. 2812; ECF No. 2812-2 (Declaration of Jennifer M. Keough Regarding Notice Plan and Settlement Administration).

During the Final Fairness Hearing, the Settling Parties demonstrated that the Second Blue Bid relief provided to certain Self-Funded Accounts is properly construed as Fed. R. Civ. P. 23(b)(3) relief. *See, e.g.*, Doc. 2865 at Tr. 25–27, 42–44, 95. During that hearing, the Court agreed that Second Blue Bid is “clearly individualized relief . . . or divisible relief” in light of its “unique feature[s],” and that, as a result, treating it as (b)(3) relief rather than (b)(2) relief is “cleaner.” *Id.* at 25, 43, 152. The notice first disseminated to the Settlement Classes in March 2021 did not explicitly state that Second Blue Bid is Rule 23(b)(3) relief or that Self-Funded Accounts that opt out of the Rule 23(b)(3) Damages Class retain the right to seek individualized injunctive relief.

Therefore, Subscriber Plaintiffs respectfully request that the Court issue the attached [Proposed] Order Regarding Supplemental Notice to Self-Funded Accounts. This Motion is further supported by the Declaration of Jennifer M. Keough regarding Supplemental Notice to Self-Funded Accounts and attached exhibits.

Date: January 10, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

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/s/ Michael D. Hausfeld

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